

## **Sec. 11-174. Permanency hearing.**

(a) At the permanency disposition hearing, the court shall determine the following factors:

- (1) The circumstances of the dependency;
- (2) The present condition of the child and parent(s), including physically, emotionally, and psychologically;
- (3) Proposed placement and other relevant care plans for the child, including the plans and ability for the child to maintain cultural-connectedness and familial ties, where feasible and in the child's best interest. For proposed placement considerations, the court considers placements in the tribal service area and out of the tribal service area. If the child is located out of the tribal service area, the court will determine if the placement continues to be appropriate and in the best interest of the child;
- (4) The child's desires if over the age of 14, or where otherwise deemed appropriate;
- (5) The age of the child;
- (6) The remedying actions of the respondent parent(s) or guardian(s) from the time of removal;
- (7) A history of any out-of-home placements;
- (8) Any bonds the child has formed with substitute care;
- (9) Efforts by the Community social services department to identify any available relative placement options when the child is not placed with family;
- (10) The existence of any reasonable efforts by the Community social services department to assist the parent(s) and children with reunification of the family, when reasonable efforts were required;
- (11) The recommendations of the Community prosecutor and Community social services department;
- (12) The recommendations of the appointed guardian ad litem;
- (13) The recommendations of the parent(s) or legal guardian(s);
- (14) The recommendations of all persons who have a privileged relationship with the child who has made a recommendation, including any expert who has made a best interest recommendation;
- (15) Any other such facts, conclusions or observations as may be pertinent to the parent and child relationship;
- (16) For a child for whom another planned permanent living arrangement has been determined as the permanency plan, the steps the Community social services department is taking to ensure the child's foster family or child care institution is following the reasonable and prudent parent standard and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities; and
- (17) For a child 14 years of age or older, the services needed to assist the child in making a successful transition from foster care to successful adulthood.

(b) Upon considerations of all of the factors of subsection (a) of this section, the court shall make specific findings as to the following:

- (1) The remedying actions of the respondent parent(s) or guardian(s), and the effectiveness of such actions;
- (2) Any emotional bonds the child has formed with substitute care;
- (3) Efforts by the Community social services department to identify any relative placement options when the child is not placed with family;
- (4) The existence of any reasonable efforts by the Community social services department to assist the parent(s) and child(ren) with reunification of the family, when reasonable efforts were required;
- (5) The Community social services department has made reasonable efforts to finalize the permanency

plan within 12 months from the time the child entered the Community's care and at least once every 12 months thereafter while the child remains in the Community's care; and

(6) The best interest of the child.

(c) *Qualified residential treatment program placements.* If a child is in placement at a qualified residential treatment program, the Court shall:

(1) consider the assessment, determination, and documentation made by the qualified individual conducting the assessment;

(2) determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and whether that placement is consistent with the short-term and long-term goals for the child, as specified in the permanency plan for the child; and

(3) approve or disapprove the placement.

(d) The best interest of the child shall be the primary determining factor in making the permanency disposition. As to the determination of best interest, the court shall consider the following (if such information exists):

(1) Any recommendations from the child's treating mental health professional regarding the plans to meet the child's needs for consistency and bonding, including any emotional bonds the child has formed with substitute care;

(2) Proposed plans regarding the ability of the child to maintain cultural-connectedness and cultural identity;

(3) Any evidence in the record of the parent's demonstrated ability or lack of ability to substantially remediate the underlying issues that led to the dependency action;

(4) Any other relevant evidence presented.

(e) Upon motion by the parties, the court may reconsider a permanency determination plan that was previously ordered. In doing so, the court shall conduct a permanency hearing pursuant to this section.

(f) Procedural safeguards will be applied to permanency hearings.